

House Engrossed Senate Bill

FILED

**JANICE K. BREWER
SECRETARY OF STATE**

State of Arizona
Senate
Forty-seventh Legislature
Second Regular Session
2006

CHAPTER 153

SENATE BILL 1116

AN ACT

AMENDING SECTIONS 8-291.06 AND 13-4508, ARIZONA REVISED STATUTES; RELATING TO
COMPETENCY.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 8-291.06, Arizona Revised Statutes, is amended to
3 read:

4 8-291.06. Privilege against self-incrimination; sealed reports

5 A. The privilege against self-incrimination applies to any examination
6 or to any statement that is made to restoration personnel during the course
7 and scope of a court ordered restoration program.

8 B. Any evidence or statements that are obtained during an examination
9 or any evidence or statements that are made to restoration personnel during
10 the course and scope of a restoration program are not admissible in any
11 proceeding to determine the juvenile's guilt or innocence unless the juvenile
12 presents evidence that is intended to rebut the presumption of sanity.

13 C. Any statement that a juvenile makes during any examination, any
14 statement that a juvenile makes to restoration personnel during the course
15 and scope of a restoration program or any evidence resulting from the
16 statement concerning any other event or transaction is not admissible in any
17 proceeding to determine the juvenile's guilt or innocence of any other
18 charges that are based on those events or transactions.

19 D. Any statement that the juvenile makes during an examination, any
20 part of the evaluations that is obtained during an examination or any
21 statements that the juvenile makes to restoration personnel during the course
22 and scope of a restoration program may not be used for any purpose without
23 either:

24 1. The written consent of the juvenile or the juvenile's guardian.

25 2. A court order that is entered by the court that ordered the
26 examination or that is conducting a dependency or severance proceeding.

27 E. After ~~the case proceeds to adjudication~~ AN ADMISSION OR
28 ADJUDICATION OF DELINQUENCY or AFTER the juvenile is found to be unable to
29 ~~regain~~ BE RESTORED TO competence, the court shall order all of the reports
30 that are submitted pursuant to this article to be sealed. The court may
31 order that the reports be opened only as follows:

32 1. For USE BY THE COURT OR JUVENILE, OR BY THE PROSECUTOR IF OTHERWISE
33 PERMITTED BY LAW, FOR further competency or sanity evaluations.

34 2. For statistical analysis.

35 3. When the records are deemed to be necessary to assist in mental
36 health treatment pursuant to this article or section 13-502.

37 4. FOR USE BY THE PROBATION DEPARTMENT OR THE DEPARTMENT OF JUVENILE
38 CORRECTIONS FOR THE PURPOSES OF ASSESSMENT AND SUPERVISION OR MONITORING OF
39 THE JUVENILE BY THAT DEPARTMENT.

40 5. FOR USE BY A MENTAL HEALTH TREATMENT PROVIDER THAT PROVIDES
41 TREATMENT TO THE JUVENILE OR THAT ASSESSES THE JUVENILE FOR TREATMENT.

42 ~~4.~~ 6. For data gathering.

43 ~~5.~~ 7. For scientific study.

1 F. If the court orders reports to be open for the purposes of
2 statistical analysis, data gathering or scientific study pursuant to
3 subsection E of this section, the reports shall be anonymous.

4 G. Any statement that a juvenile makes during an examination, any
5 statement that a juvenile makes to restoration personnel during the course
6 and scope of a restoration program or any evidence resulting from that
7 statement is not subject to disclosure pursuant to section 36-509.

8 Sec. 2. Section 13-4508, Arizona Revised Statutes, is amended to read:
9 13-4508. Privilege against self-incrimination; records

10 A. The privilege against self-incrimination applies to any examination
11 that is ordered by the court pursuant to this chapter.

12 B. Any evidence or statement that is obtained during an examination is
13 not admissible at any proceeding to determine a defendant's guilt or
14 innocence unless the defendant presents evidence that is intended to rebut
15 the presumption of sanity.

16 C. Any statement made by the defendant during an examination or any
17 evidence resulting from that statement concerning any other event or
18 transaction is not admissible at any proceeding to determine the defendant's
19 guilt or innocence of any other criminal charges that are based on those
20 events or transactions.

21 D. Any statement made by the defendant or any part of the evaluations
22 that are IS obtained during an examination may not be used for any purpose
23 without the written consent of the defendant or the defendant's guardian or a
24 court order that is entered by the court that ordered the examination or that
25 is conducting a dependency or severance proceeding.

26 E. ~~After the case proceeds to trial~~ A PLEA OF GUILTY OR GUILTY EXCEPT
27 INSANE OR THE TRIAL or AFTER the defendant is found to be unable to regain BE
28 RESTORED TO competence, the court shall order all the reports submitted
29 pursuant to this section sealed. The court may order that the reports be
30 opened only for AS FOLLOWS:

31 1. FOR USE BY THE COURT OR DEFENDANT, OR BY THE PROSECUTOR IF
32 OTHERWISE PERMITTED BY LAW, FOR further competency or sanity evaluations. —

33 2. For statistical or data gathering for the purpose of scientific
34 study or ANALYSIS.

35 3. When the records are deemed necessary to assist in mental health
36 treatment pursuant to this chapter or section 13-502 OR 13-4517.

37 4. FOR USE BY THE PROBATION DEPARTMENT FOR THE PURPOSES OF ASSESSMENT
38 AND SUPERVISION OR MONITORING OF THE DEFENDANT BY THAT DEPARTMENT.

39 5. FOR USE BY A MENTAL HEALTH TREATMENT PROVIDER THAT PROVIDES
40 TREATMENT TO THE DEFENDANT OR THAT ASSESSES THE DEFENDANT FOR TREATMENT.

41 6. FOR DATA GATHERING.

42 7. FOR SCIENTIFIC STUDY.

43 F. Any statement made by the defendant during an examination that is
44 conducted pursuant to this chapter or any evidence resulting from that
45 statement is not subject to disclosure pursuant to section 36-509.

APPROVED BY THE GOVERNOR APRIL² 17, 2006.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 17, 2006.